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Honorable James E. Preuitt  
Representative, District 55  
P. O. Box 1063  
Talladega, Alabama 35160

State Agencies -- Competitive  
Bid Law -- Public Contracts --  
Telephones.

The acquisition of utility  
(telephone) services, the rates  
of which are fixed under tariff  
by the Alabama Public Service  
Commission, is exempt from the  
requirements of the Competitive  
Bid Law.

Dear Representative Preuitt:

In your letter dated August 27, 1985, to the Attorney General, you  
asked this office's opinion concerning this question:

Are central office switching services or other services  
offered by local exchange telephone companies, under  
rates and tariffs approved by the Alabama Public Service  
Commission required to be obtained through a competitive  
bid process or subject to the competitive bid laws for  
public contracts?

Generally, the letting of public contracts of whatever nature for  
the purchase or lease of goods or services must be done by free and open  
competitive bidding. Sections 41-16-20 and 41-16-50, Code of Alabama  
1975, clearly place this requirement on state departments, boards,  
commissions, colleges, universities, county and municipal governing  
bodies and other governmental entities.

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However, the Competitive Bid Law contains specific exceptions where the competitive bidding process is not required.

Competitive bids shall not be required for utility services where no competition exists or where rates are fixed by law or ordinance .... (Section 41-16-21(a), Code of Alabama 1975.)

Competitive bids shall not be required for utility services, the rates for which are fixed by law, regulation or ordinance .... (Section 41-16-51(a), Code of Alabama 1975.)

While the telecommunications industry is being deregulated, the Alabama Public Service Commission retains jurisdiction over certain services provided by local exchange telephone companies. These services, such as central office switching, are regulated utility services within the meaning of the above-cited provisions exempting the acquisition of such services from the competitive bidding process.

It is our opinion that central office switching services and those other services provided by local exchange telephone companies, the rates for which are regulated by the Alabama Public Service Commission, may be acquired by governmental entities without the necessity of competitive bidding.

I trust the foregoing answers your question. If this office can be of further assistance to you, please let us know.

Sincerely,

CHARLES A. GRADDICK

Attorney General

By



A. LEE MILLER, III

Assistant Attorney General

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